

THE OFFICE OF REGULATORY STAFF

**DIRECT
TESTIMONY**

OF

DAWN M. HIPPIE

AUGUST 8, 2011



DOCKET NO. 2011-246-C

**PETITION FOR ARBITRATION OF INTERCONNECTION
AGREEMENT BETWEEN TIME WARNER CABLE
INFORMATION SERVICES (SOUTH CAROLINA), LLC D/B/A
TIME WARNER CABLE AND PBT TELECOM, INC.**

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FOR

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DOCKET NO: 2011-246-C

**IN RE: PETITION FOR ARBITRATION OF INTERCONNECTION
AGREEMENT BETWEEN TIME WARNER CABLE INFORMATION
SERVICES (SOUTH CAROLINA), LLC D/B/A TIME WARNER CABLE AND
PBT TELECOM, INC.**

**Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND
OCCUPATION.**

A. My name is Dawn M. Hipp and my business address is 1401 Main Street,
Suite 900, Columbia, South Carolina 29201. I am employed by the State of South
Carolina Office of Regulatory Staff ("ORS") as Director of the
Telecommunications, Transportation, Water and Wastewater Department.

**Q. PLEASE DESCRIBE YOUR BUSINESS EXPERIENCE AND
BACKGROUND.**

A. I am a 1992 graduate of Minnesota State University where I earned a B.S.
in Political Science. I have over eight years of experience in hazardous waste
regulation working for Laidlaw Environment Services, Inc., Safety-Kleen
Corporation and Clean Harbors Environmental Services, Inc. as an accounts
receivable supervisor, a facility accounting supervisor and an operations manager

1 in the Government Services Division. I joined ORS in 2004 as a Program
2 Specialist in the Telecommunication, Transportation, Water and Wastewater
3 Department. In 2007, I became the Director of that department and hold that
4 position today.

5 **Q. WHAT ARE YOUR RESPONSIBILITIES IN THE**
6 **TELECOMMUNICATIONS DEPARTMENT?**

7 **A.** I supervise all telecommunications activities of ORS including the
8 certification of new telecommunications companies, regulation of existing
9 telecommunications companies, management of the state Universal Service Fund,
10 Dual Party Relay Fund, Interim LEC Fund, and administration of the state's
11 Lifeline Program.

12 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS**
13 **PROCEEDING?**

14 **A.** The purpose of my testimony is to present ORS' position on the petition of
15 Time Warner Cable Information Systems ("TWCIS" or "Company") for
16 arbitration of an interconnection agreement with PBT Telecom, Inc. ("PBT")

17 **Q. DID THE COMMISSION ADDRESS WHETHER TWCIS COULD**
18 **DIRECTLY INTERCONNECT WITH THE RURAL LOCAL EXCHANGE**
19 **CARRIERS IN COMMISSION ORDER NO. 2009-356?**

20 **A.** No. The Commission in its Order No. 2009-356 dated June 5, 2009,
21 required that TWCIS only use underlying carriers that are authorized to do
22 business in the State of South Carolina, that hold valid Certificates of Public

1 Convenience and Necessity issued by the Public Service Commission of South
2 Carolina (“Commission” or “PSC”), and that have interconnection agreements
3 with the Rural Local Exchange Carriers (“RLECs”). (Order No. 2009-356 at Page
4 22). TWCIS witness Ms. Bailey states in her pre-filed testimony in this docket
5 that the Company is looking to reduce cost by directly interconnecting with PBT.
6 Because of the representations made by TWCIS to the Commission that it
7 intended to use an underlying carrier, the Commission did not specifically address
8 the issue of whether TWCIS could directly interconnect with the RLECs.

9 **Q. WHAT IS YOUR RECOMMENDATION?**

10 A. If the Commission interprets its Order No. 2009-356 to allow TWCIS to
11 directly interconnect with the RLEC and not be required to use an underlying
12 carrier, I recommend the Commission should find that TWCIS, as a
13 telecommunications carrier, is entitled to the rights and duties afforded to all
14 telecommunications carriers under the Telecommunications Act of 1996. In
15 support of this position, I provide the following for Commission consideration:

- 16 1. Section 251(a) of the Telecommunications Act of 1996 provides that
17 “Each telecommunications carrier has the duty- (1) to interconnect
18 directly or indirectly with the facilities and equipment of other
19 telecommunications carriers; and...” (Emphasis added).

- 20
21 2. This Commission found at page 19 of Order No. 2009-356 that
22 TWCIS is a telephone utility as defined by S.C. Code Ann. Section 58-
23 9-10, and no court, federal agency, or other body of competent

jurisdiction has determined otherwise. TWCIS possesses a valid Certificate of Public Convenience and Necessity issued by the Commission and is in compliance with all Commission rules and regulations.

3. Should the Commission take the position that TWCIS is a telephone utility pursuant to South Carolina law but not a telecommunications carrier under federal law, this dichotomy could have unintended consequences. For example, TWCIS may then take the position that it does not have to interconnect with other requesting certified telecommunications carriers. Furthermore, TWCIS is currently one of the top contributors to the South Carolina Universal Service Fund ("SC USF") because it offers telecommunications service regulated under existing SC law. TWCIS may not be required to contribute to the SC USF if the Commission changes its position on what is considered a "telecommunications service."

4. ORS is unwilling to adopt a secondary position that TWCIS is not a telecommunications carrier under federal law. That secondary position clearly conflicts with ORS' position in Docket Nos. 2008-325 through 2008-329-C which stated that TWCIS is a telecommunications carrier, and TWCIS's Digital Phone service is a "telephone" service.

Q. WHY SHOULD TWCIS'S DIGITAL PHONE SERVICE NOT BE GRANTED THE EXEMPTIONS AFFORDED BY THE FCC'S RULING IN

**THE VONAGE ORDER (MEMORANDUM OPINION AND ORDER IN
WC DOCKET NO. 03-211, RELEASED ON NOVEMBER 12, 2004 (FCC
04-267))?**

A. Like Vonage's Voice over IP ("VoIP") telecommunications service, TWCIS's Digital Phone Service uses IP technology to transport calls over the Internet and to deliver calls to their destination. That is the extent of the similarity between TWCIS and Vonage. TWCIS Digital Phone service requires the customer to have a fixed TWCIS provided broadband connection. The portable Vonage service can be provided over any broadband connection and can be used wherever the customer is able to get a broadband connection. This requirement for facilities is what makes the TWCIS service a regulated telecommunications service under existing South Carolina law. TWCIS has complied with all the requirements of a telephone utility in South Carolina.

Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?

A. Yes it does.

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2011-246-C

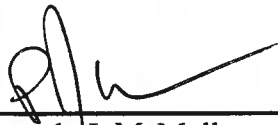
IN RE:

Petition for Arbitration of Interconnection)	
Agreement between Time Warner Cable)	CERTIFICATE OF
Information Services (South Carolina), LLC)	SERVICE
d/b/a Time Warner Cable and PBT Telecom,)	
Incorporated)	

This is to certify that I, Pamela J. McMullan, have this date served one (1) copy of the **DIRECT TESTIMONY OF DAWN M. HIPP** in the above-referenced matter to the person(s) named below by causing said copy to be deposited in the United States Postal Service, first class postage prepaid and affixed thereto, and addressed as shown below:

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Pamela J. McMullan

August 8, 2011
Columbia, South Carolina